

REMARKS

Claims 1, 5, 8 and 9 remain pending herein. Claims 1 and 5 have been amended hereby to ever more clearly recite features of the present invention. Support for the claim amendments can be found at e.g., page 14, lines 19-27 and page 18, lines 11-17 of the present application. No new matter has been presented. For the reasons discussed below, Applicant submits that all of the pending claims are believed to be in condition for allowance.

In the Office Action,

- Claims 1 and 8 were rejected under 35 U.S.C. §112, second paragraph;
- Claim 1 was rejected under 35 U.S.C. §103(a) as being unpatentable over Newton (US 2,332,488) in view of Kawasaki et al. (US 5,433,724, "Kawasaki");
- Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eaton (US 5,413,582);
- Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Newton in view of Kawasaki et al., further in view of Nagelman (US 1,288,130); and
- Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eaton in view and Nagelman.

These grounds of rejection are respectfully traversed.

Preliminarily, claim 1 has been amended to address the concerns raised in the Office Action in connection with the §112 rejection. Withdrawal of this ground of rejection is accordingly respectfully urged.

The present invention relates to a muscle development device, and can be classified into two groups (i.e., group 1: claims 1 and 8, and group 2: claims 5 and 9).

The Examiner maintains that group 1 is unpatentable over Newton in view of Kawasaki (and Nagelman), and group 2 is unpatentable over Eaton (and Nagelman).

As set forth above, and to even more clearly distinguish the presently claimed invention from the cited prior art, independent claims 1 and 5 have been amended to recite that the tight fitting band is stretchable in a lengthwise direction thereof.

The amendments are supported by the original description:

A. The fabric used on the side facing to muscles (inner side) of the tight fitting band 1 is made of stretch threads woven together to have a net-like appearance. The fabric used on the side opposite to muscles (outer side) is made from polyester foam. A plurality of plastic wire-like pieces 6 are provided therein generally in parallel to the widthwise direction of the tight fitting band 1 at a predetermined distance (5 mm to 1 cm) along the length of the tight fitting band 1, as shown in Figs. 3A and 3B. (p.14, lines19-27); and

B. Therefore, as shown in Fig. 6, the tight fitting band 1 can follow and hold a complex up-and-down surface of the muscles in close contact with it in a flexible manner. When a user does exercises with the tight fitting band 1 being rest on his or her muscles, the internal pressure within the tube 5 can be kept constant and a sufficient pressure can be applied to every part even under the influence of muscle movements. (p.18, lines 11-17).

More specifically with respect to cited paragraph B above, a predetermined compression pressure can be applied to muscles even if the muscles pump up by bending an arm or a leg, because the entire muscle development device is stretchable in the lengthwise direction thereof. If the muscle development device is not designed to be stretchable, the muscle development device bites into muscles when the muscles pump up. In such a case, the compression pressure applied to the muscles increases and a predetermined compression pressure cannot be applied, in contradiction to the requirement of the claims.

Regarding the applied prior art, Newton discloses a blood pressure cuff, Eaton discloses a tourniquet, and Kawasaki discloses a hemostatic belt.

Each of Eaton and Kawasaki relates to a belt used for hemostasis by tightening a range near a wounded portion closer to the heart, for example, when a finger is wounded. It is well known in the medical field that such a belt is not designed to be stretchable in the lengthwise direction. If the belt for hemostasis is stretchable, sufficient hemostasis cannot be achieved. It is noted that McEwen (US 4,770,175), which is not discussed in the outstanding Office Action, relates to an occlusive cuff. An occlusive cuff uses a non-stretchable material, and the occlusive

cuff is not designed to be stretchable as a whole. Common occlusive cuffs are made from non-stretchable materials, and thus, such cuffs are not stretchable as a whole.

Newton is directed to a blood pressure cuff. It is also well known in the medical field that a blood pressure cuff is not designed to be stretchable in the lengthwise direction. If the blood pressure cuff were stretchable in the lengthwise direction, blood pressure could not be accurately detected.

The Examiner argues that it would be obvious to replace the surface tape of Kawasaki with the stretchable seam tape of the present invention. However, there is no reason to employ a stretchable surface tape on Kawasaki's belt, which is not stretchable as a whole. Similarly, Newton discloses a non-stretchable cuff, which is to be combined with Kawasaki, and the seam tape does not have to be stretchable. Accordingly, it is impossible to make the present invention on the basis of a combination of Newton and Kawasaki.

Moreover, whether or not the surface tape is stretchable does not affect patentability of present claim 1. Even if the surface tape is stretchable, a belt including at least one material which is not stretchable in the lengthwise direction is not stretchable as a whole in the lengthwise direction, and thus such a belt cannot meet the limitation of "the tight fitting band being stretchable in a lengthwise direction thereof."

The presently claimed invention prevents the muscle development device from biting into muscles even if the muscles pump up by, e.g., bending an arm or a leg, because the muscle development device is stretchable in the lengthwise direction. Accordingly, the present invention can reduce the risk that the compression pressure applied to the muscles reaches a dangerous level. Neither Newton nor Kawasaki discloses such advantageous effects.

In sum, any combination of Newton and Kawasaki et al. (and even Nagelman) would never result in the claimed invention, which requires that the tight fitting band is stretchable in a lengthwise direction thereof.

The rejection of claim 5 (group 2) based on Eaton is discussed next. The Examiner points out that element 66 of Eaton, which is substantially a hook and loop fastener, corresponds to the seam tape of the presently claimed invention. However, Eaton does not describe that element 66

is stretchable and, in particular, Eaton does not disclose the claimed requirement of the "seam tape, which is stretchable but of which stretching rate is lower than that of the tube". Thus, it is impossible to arrive at the presently claimed invention on the basis of Eaton.

In any event, and as explained above with respect to claim 1, whether or not the element 66 is stretchable does not affect patentability of the present claim 5. If the cuff of Eaton includes at least one material that is not stretchable in the lengthwise direction, the cuff is not stretchable, which is contrary to the requirements of the claims. And, the cuff of Eaton has to include non-stretchable material so as to perform its essential function.

Both the blood pressure cuff and the belt for hemostasis should not be stretchable due to their essential functions. Furthermore, the blood pressure cuff and the belt for hemostasis need not be stretchable as a whole because users do not do exercises when using them. Thus, none of the cited art provides motivation to make a stretchable muscle development device in accordance with the present invention.

As already noted, an advantage of such a stretchable muscle development device is that it prevents the muscle development device from biting into muscles even if the muscles pump up when, e.g., bending an arm or a leg, because the entire muscle development device is stretchable in the lengthwise direction. Accordingly, the present invention can reduce the risk that the compression pressure applied to the muscles reaches a dangerous level, and can instead maintain a "predetermined pressure." None of the cited art provides such advantageous effects.

In view of the foregoing, claims 1 and 5 are believed to be patentable over the prior art of record. Reconsideration and withdrawal of the §103(a) grounds of rejection of those claims, and claims 8 and 9 dependent thereon, are respectfully requested.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicant's undersigned representative at the number listed below.

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